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7 JOYCE MARIE SIMMONS,  
8 Plaintiff,  
9 v.  
10 KIMBERLY LUKE,  
11 Defendant.

Case No. [19-cv-00139-HSG](#)

**ORDER GRANTING REQUEST TO  
DEEM AMENDED COMPLAINT  
TIMELY FILED**

Re: Dkt. No. 12

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13 Plaintiff, an inmate at the Federal Correctional Institution in Dublin, California, has filed  
14 the instant *pro se* action pursuant to 42 U.S.C. § 1983. On May 3, 2019, the Court dismissed the  
15 complaint with leave to amend. Dkt. No. 8. Plaintiff was instructed to file an amended complaint  
16 by May 31, 2019. *See id.* Plaintiff's amended complaint was submitted to prison authorities for  
17 mailing on May 31, 2019, and filed with the Court on June 17, 2019. Dkt. No. 11. The Court  
18 affords Plaintiff application of the prison mailbox rule. *See Houston v. Lack*, 487 U.S. 266, 276  
19 (1988) (*pro se* prisoner filing is dated from the date prisoner delivers it to prisoner authorities).  
20 Plaintiff's amended complaint is deemed timely filed on May 31, 2019. The Court construes  
21 Plaintiff's request for leave to file the amended complaint out of time as a request to deem the  
22 amended complaint timely filed and GRANTS the request.

23 This order terminates Dkt. No. 12.

24 **IT IS SO ORDERED.**

25 Dated: 7/23/2019

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27 HAYWOOD S. GILLIAM, JR.  
28 United States District Judge